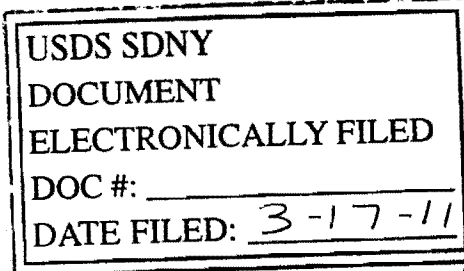


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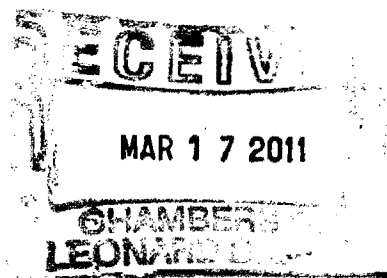
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March 16, 2011

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Honorable Leonard B. Sand
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Court House
500 Pearl Street
New York, New York 10007-1312

Re: Spicer et al., v. Pier Sixty, LLC et al.
Index No.: 08 civ. 10240



Dear Judge Sand:

Together with Emery Celli Brinckerhoff & Abady LLP, we represent Plaintiffs and the Class in the above-captioned matter. Earlier at today's Conference, Defendants' Counsel requested that this Court recuse itself from this matter because of your Honor's personal relationship with the Bernstein family. We write to respectfully request that this Court reconsider recusing itself until after the matter is fully briefed by both Parties.

Plaintiffs' request is appropriate in light of Defendants' explicit representation to me prior to the Conference, on March 4, 2011, that it would not move for recusal. This representation coupled with the lack of detail in Defendants' correspondence with the Court as to why they requested the Conference left Plaintiffs without an opportunity to formally oppose Defendants' motion and fully address the issues raised by Defendants at the Conference. Given the "the cost in judicial resources of recusal and reassignment of the case to different judges, and the interest of the parties and the public in a swift resolution of the dispute," we strenuously urge the Court to give Plaintiffs a full and fair opportunity to be heard on this matter before recusing itself. *Muchnick v. Thomson Corp. (In re Literary Works in Elec. Databases Copyright Litig.)*, 509 F.3d 136 (2d Cir. 2007). For reasons Plaintiffs intend to set forth in a memorandum of law, Plaintiffs believe that Defendants' request for recusal, particularly at this stage of litigation, is inappropriate.

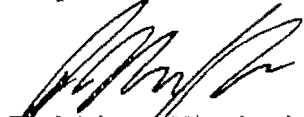
MEMO ENDORSED

MEMO ENDORSED

Accordingly, we respectfully request that Defendants be required to file a formal motion for recusal on or before March 30, 2011 and Plaintiffs be given an opportunity to oppose this motion on or before April 13, 2011.

Thank for your attention to this matter.

Respectfully submitted,



D. Maimon Kirschenbaum

cc: Carolyn Richmond, Esq. (via e-mail)
Seth Kaplan, Esq. (via e-mail)
Doug Flaum, Esq. (via e-mail)
Lisa Bebchick, Esq. (via e-mail)
Jonathan Abady, Esq. (via e-mail)
Matthew Brinckerhoff, Esq. (via e-mail)

Concurrence
Granted as
requested.
So ordered
James P. Sand
3/17/2011

MEMO ENDORSED